

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

MYKROLIS CORPORATION,)
) Consolidated Cases:
Plaintiff,)
)
v.) Civil Action No: 03-CV-10392 GAO
)
PALL CORPORATION,)
)
Defendant.)
)
PALL CORPORATION,)
)
Plaintiff,)
)
v.) Civil Action No: 04-CV-10887 GAO
)
MYKROLIS CORPORATION,)
)
Defendant.)

PALL'S REPLY TO MYKROLIS' COUNTERCLAIM

Pall Corporation (“Pall”) replies to the Counterclaim of Mykrolis Corporation (“Mykrolis”) in Civil Action No. 04-CV-10887 GAO as follows:

49. Admitted that the Counterclaim on its face seeks damages and a preliminary and permanent injunction for alleged patent infringement. Denied as to the remainder of the allegations.

50. Admitted that, to the extent that a claim for patent infringement is asserted under the United States Patent Laws, Title 35 of the United States Code, subject matter jurisdiction is appropriate under 28 U.S.C. §§ 1331 and 1338(a). Denied as to the remainder of the allegations.

51. Admitted that, to the extent that a claim for patent infringement is asserted under the United States Patent Laws, Title 35 of the United States Code, venue is appropriate under 28 U.S.C. §§ 1391(b) and 1400.

52. Admitted based upon information and belief.

53. Admitted.

54. Admitted that the identified patent issued on the identified date with the identified title, and that a copy is attached to the Mykrolis' Answer To Amended Complaint, And Counterclaim. Denied to the extent that the allegation alleges or implies that the patent was duly or legally issued by the United States Patent and Trademark Office ("USPTO").

55. Admitted based upon information and belief.

56. Denied.

57. Pall denies that it has infringed or is currently infringing any claim of U.S. Patent No. 6,068,770 ("the '770 patent"). Pall denies that it, on its own or through affiliates or agents, makes, uses, sells, offers for sale, or is importing into the United States the PhotoKleen™ EZD-2 Filter Assembly, retrofit EZD-2 devices, and/or redesigned EZD-2 devices.

58. Denied.

59. Admitted that the identified patent issued on the identified date with the identified title, and that a copy is attached to the Mykrolis' Answer To Amended Complaint, And Counterclaim. Denied to the extent that the allegation alleges or implies that the patent was duly or legally issued by the USPTO.

60. Admitted based upon information and belief.

61. Denied.

62. Pall denies that it has infringed or is currently infringing any claim of U.S. Patent No. 6,378,907 ("the '907 patent"). Pall denies that it, on its own or through affiliates

or agents, makes, uses, sells, offers for sale, or is importing into the United States the PhotoKleen™ EZD-2 Filter Assembly, retrofit EZD-2 devices, and/or redesigned EZD-2 devices.

63. Denied.
64. Pall repeats paragraphs 49-63 above, as though fully set forth herein.
65. Denied.
66. Denied.
67. Denied.
68. Denied.
69. Pall repeats paragraphs 49-68 above, as though fully set forth herein.
70. Denied.
71. Denied.
72. Denied.
73. Denied.

AFFIRMATIVE DEFENSES

Without prejudice to the denials set forth in this Reply, Pall asserts the following affirmative defenses in response to Mykrolis' Counterclaim.

FIRST AFFIRMATIVE DEFENSE

74. The Counterclaim fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

75. Pall does not and has not infringed (either directly, or by contribution or inducement) any claim of the '770 patent.

THIRD AFFIRMATIVE DEFENSE

76. Pall does not and has not infringed (either directly, or by contribution or inducement) any claim of the '907 patent.

FOURTH AFFIRMATIVE DEFENSE

77. One or more claims of the '770 patent are invalid as failing to comply with one or more of the provisions of 35 U.S.C. § 101, et seq., including §§ 102, 103 and 112.

FIFTH AFFIRMATIVE DEFENSE

78. One or more claims of the '907 patent are invalid as failing to comply with one or more of the provisions of 35 U.S.C. § 101, et seq., including §§ 102, 103 and 112.

SIXTH AFFIRMATIVE DEFENSE

79. Mykrolis' damages claims are barred by the marking statute, 35 U.S.C. § 287, to the extent that such damages are sought based on sales prior to the date Plaintiff notified Pall of its alleged infringement. On information and belief, neither Mykrolis nor its licensees have marked its products falling within the scope of the claims of the '770 and/or '907 patents.

REQUEST FOR RELIEF

WHEREFORE, Pall denies that Mykrolis is entitled to any of the relief sought in Mykrolis' Answer To Pall's Amended Complaint, And Counterclaims. Pall respectfully requests that the Court, in addition to the relief sought in the Amended Complaint in this action, decree:

- A. That Mykrolis' Counterclaim be dismissed with prejudice, and that Mykrolis take nothing by its Counterclaim;
- B. That each of the claims of the '770 patent is invalid and/or not infringed by Pall;
- C. That each of the claims of the '907 patent is invalid and/or not infringed by Pall;

D. That Pall be awarded the costs and expenses of bringing this action and defending against the Counterclaim, including its attorneys' fees, costs and expenses in this action; and

E. That judgment for Pall be entered for such other and further relief as this Court may deem just and proper.

Respectfully submitted,

PALL CORPORATION

Date: February 15, 2005

/s/ Gary R. Greenberg

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CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2005, a true and correct copy of PALL'S REPLY TO MYKROLIS' COUNTERCLAIM was served upon counsel for Mykrolis in the manner indicated below:

Via Facsimile with
Confirmation via First Class Mail

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/s/ Gary R. Greenberg